

Miami Dade County Resolution Reference Book

Thursday, September 12 2002

| S | T | R | Item # | Resol. Appl. Name | Resol. # | Type of change & conditions | Leg.- Descript./Location |
|----|----|----|--------|------------------------|----------|--|---|
| 10 | 53 | 41 | 130 | Home & Housing of Dade | Z-170-85 | U.Var. RU-3M use in the RU-1 & BU-2. / S.E. 52 units mult-fam-hous'g-devel. on prvt. drives. / Vars.20' (30'req) spc'g btwn. bldgs. | Trs. 27 & 29 less W 110' / W Little River Rev. (34-19) |

TEAM METRO CALEB OFFICE

ENFORCEMENT HISTORY

S & D LAND DEVELOPMENT, INC

THE SOUTHEAST CORNER OF
NW 78 ST & NW 22 AVENUE,
MIAMI-DADE COUNTY,
FLORIDA

APPLICANT

ADDRESS

03-13-2003

02-265

DATE

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

CASE # 200204003786 (Folio# 30-3110-057-2030)

2-28-02 First Inspection conducted. Property found in violation of overgrowth.

10-21-02 Citation #888959 (Chapter 19-6) was mailed to property owner.

CASE # 200204000721 (Folio# 30-3110-057-2100)

2-28-02 First Inspection conducted. Property found in violation of overgrowth.

3-3-02 Citation #783323 (Chapter 19-5) was mailed to property owner.

3-20-02 Citation #783323 was posted at property.

4-15-02 Compliance inspection revealed that the violation still exists.

4-25-02 Case has been prepared for remediation.

2-25-03 Property was re-inspected. Violation still exists. Property owner's representative (Maria) was advised that the County contractor would begin clearing on 3/4/2003.

3-6-03 No change.

CASE # 200204001630 (Folio# 30-3110-057-2100)

5-14-02 First Inspection conducted. Property found in violation of junk vehicles.

5-14-02 Citation #795380 (Chapter 19-6) was posted at the property.

5-30-02 Compliance inspection revealed that the violation still exists.

6-14-02 Case has been prepared for remediation.

2-25-03 Property was re-inspected. Violation still exists. Property owner's representative (Maria) was advised that the County contractor would begin clearing on 3/4/2003.

3-6-03 No change.

RESOLUTION NO. Z-170-85

The following resolution was offered by Commissioner Sherman S. Winn, seconded by Commissioner Jorge (George) Valdes, and upon poll of members present the vote was as follows:

| | | | |
|-----------------------|--------|-----------------------|--------|
| Barbara M. Carey | aye | Barry D. Schreiber | aye |
| Clara Oesterle | absent | Sherman S. Winn | aye |
| Beverly B. Phillips | aye | Jorge (George) Valdes | aye |
| James F. Redford, Jr. | aye | Stephen P. Clark | absent |
| Harvey Ruvin | aye | | |

WHEREAS, HOME AND HOUSING OF DADE, had applied for the following:

- (1) A district boundary change from RU-1 (Single Family Residential) and BU-2 (Special Business) to RU-3M (Minimum Apartment House).

OR IN THE ALTERNATIVE:

- (2) USE VARIANCE AND SPECIAL EXCEPTION to permit a proposed 52 unit multiple family housing development in the RU-1 and BU-2 zones as would be permitted in the RU-3M zone.

AND WITH EITHER REQUEST:

- (3) SPECIAL EXCEPTION for site plan approval of a proposed 52 unit multiple family housing development on private drives, including the following non-use variances:
- a. to permit two buildings to setback 15.06' (25' required) from the front (east) property line (N.W. 21st Avenue).
 - b. to permit two buildings to setback 20' (25' required) from the rear (west) property line.
 - c. to permit buildings spaced a minimum of 20' (30' required) between buildings.

Plans are on file and may be examined in the Zoning Department entitled "52 Unit Apartment Complex", as prepared by Home and Housing of Dade, Inc., dated received 3-5-85, and consisting of one page.

SUBJECT PROPERTY: All of Tracts 27 and 29 of REVISED PLAT OF WEST LITTLE RIVER, Plat book 34, Page 19, and also that portion of N.W. 77th Terrace Street and N.W. 77th Terrace closed by Resolution 296, lying south of said Tract 27 and between said Tracts 27 and 29, respectively as shown on said REVISED PLAT OF WEST LITTLE RIVER.

LESS AND EXCEPT THE FOLLOWING PORTION:

The west 110' of said Tracts 27 and 29 and that portion of the vacated right-of-way of N.W. 77th Street and N.W. 77th Terrace lying adjacent to said W/ly 110' of Tracts 27 and 29.

LOCATION: Lying west of N.W. 21 Avenue, between theoretical N.W. 78 Street and approximately 140' north of N.W. 76 Street, and

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and upon due and proper consideration having been given to the matter, it is the opinion of this Board that the alternate requested use variance and special exception and special exception and non-use variances would be compatible with the area and

Z-170-85

its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved, subject to conditions;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the alternate requested use variance and special exception to permit a proposed 52 unit multiple family housing development in the RU-1 and RU-2 zones as would be permitted in the RU-3M and special exception for site plan approval and non-use variances be and the same are hereby approved, subject to the following conditions:

1. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to issuance of any certificate of occupancy.
2. That in the approval of the plan, the same be substantially in accordance with the plan submitted for the hearing entitled "52 Unit Apartment Complex", as prepared by Home and Housing of Dade, Inc., dated received 3-5-85 and consisting on one page.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 18th day of July, 1985

May, 1985
No. 85-5-CC-17
mr
7/29/85

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
Richard P. Brinker, Clerk

By RAYMOND REED
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners
on the 15th day of August 1985.

This instrument prepared by:
Jerry B. Proctor, Esq.
Bilzin Sumberg Dunn Price & Axelrod LLP
2500 First Union Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131-2336

(Space Reserved for Clerk)

DECLARATION OF RESTRICTIONS

KNOW ALL BY THESE PRESENTS that the undersigned, Owner(s) of the following described property (the "Property"), lying, being and situated in Miami-Dade County, Florida, to-wit:

SEE EXHIBIT "A"

IN ORDER TO ASSURE the County that the representations made by the owner during consideration of Public Hearing No. 02-265 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

- (1) That the Property will be developed with no more than 180 residential untis.
- (2) That the Building Height will not exceed five (5) stories.

County Use Only
Legal Verified _____

Declaration of Restrictions

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County Inspection. As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida or other procedure permitted under the Miami-Dade County Code, whichever by law has jurisdiction over such matters, after public hearing, if required. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Department of Planning

Declaration of Restrictions

Page 3

and Zoning, or his or her successor, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Authorization for Miami-Dade County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is-complied with.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Declaration of Restrictions

Page 4

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect.

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost to the Owner following the adoption by the Miami-Dade County Board of County Commissioners or Community Zoning Appeals Board of a resolution approving the application.

[SIGNATURE ON NEXT PAGE]

Declaration of Restrictions
Page 5

Signed, ~~witnessed~~, executed and acknowledged this 18 day of November, 2002.

S&D Development, Inc.

X By: *Marcia Turner*

Print Name: MARCIA TURNER

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

} ss:

The foregoing instrument was acknowledged before me this 18th day of November, 2002 by MARCIA TURNER, as _____ of S&D Development, Inc., who is personally known to me or produced a valid driver's license as identification.

Notary Public

Sign Name:

Print Name:

Clara I. Feliciano
CLARA I. FELICIANO

My Commission Expires:

Serial No. (None, if blank): _____

[NOTARIAL SEAL]

174489\17867\5951\$1 v1
10/13/2002

CLARA I. FELICIANO
Notary Public, State of New York
No. 01FE4890824
Qualified In Kings County
Commission Expires June 29, 2003

(Public Hearing)

Declaration of Restrictions

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EXHIBIT "A"

LEGAL DESCRIPTION

Commence at the Northeast corner of Tract 27 of REVISED PLAT OF WEST LITTLE RIVER, Plat Book 34, page 19; thence S89°59'48"E for 25.11' to the Point of beginning of the hereinafter described parcel of land; thence S89°59'48"E along the S/ly right-of-way line of NW 78 Street for 548.66' to a Point of tangency of a circular curve to the left concave to the Southeast having a radius of 25' and a central angle of S89°59'54" for 39.27'; thence S0°0'18"W along the E/ly right-of-way line of NW 22 Avenue for 392.1'; thence 89°55'20"E to a point along the W/ly right-of-way line of NW 21st Avenue for 596.97'; thence N0°15'10"W along the W/ly right-of-way line of NW 21st Avenue for 391.15' to a Point of tangency of a circular curve to the left concave to the Southwest having a radius of 25' and a central angle of 90°14'58" for 39.38' to the Point of beginning.

OPINION OF TITLE

To: Miami-Dade County Department of Planning and Zoning

With the understanding that this Opinion of Title is furnished to Miami-Dade County Department of Planning and Zoning, Florida, as inducement for acceptance of a Declaration of Restrictions (the "Declaration") covering the real property hereinafter described, it is hereby certified that we have examined First American Title Insurance Company's Commitment No. 1062-74022 with an effective date of August 21, 2002 at 8:00 a.m. (the "Commitment") and as updated by First American Title Insurance Company's search updates through and including December 4, 2002 at 8:00 a.m. (the "Search Updates"), with respect to the following described real property:

See Schedule "A" attached to and made a part of this Opinion.

Basing our opinion solely on the Commitment and the Search Updates, we are of the opinion that on the last mentioned date the fee simple title to the above-described real property was vested in:

S&D LAND DEVELOPMENT, INC., a Florida corporation

NOTE: For Limited Partnership or Joint Venture, indicate parties comprising the Limited Partnership or Joint Venture and identify who is authorized to execute.

Subject to the following encumbrances, liens and other exceptions (If "none" please indicate):

1. **RECORDED MORTGAGES:**

NONE

2. **RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS:**

Final Judgment filed September 19, 1997 in Official Records Book 17796, at Page 429.

3. **GENERAL EXCEPTIONS:**

(A) All taxes, if applicable, for the year in which this Opinion is rendered, unless noted below that taxes have been paid.

(B) Rights of persons other than the above owner who are in possession.

(C) Facts that would be disclosed upon accurate survey.

(D) Any unrecorded labor, mechanics' or materialmens' liens.

(E) Zoning and other restrictions imposed by governmental authority.

4. **SPECIAL EXCEPTIONS:**

(A) Any lien provided by Chapter 159, Florida Statutes, in favor of any city, town, village or port authority for unpaid service charges for service by any water, sewer or gas system supplying the insured land.

(B) Notice of Lien – Code Enforcement filed by Miami-Dade County on August 7, 1998 in Official Records Book 18223, at Page 3827.

(C) Notice of Lien – Code Enforcement filed by Miami-Dade County on July 28, 1997 in Official Records Book 17728, at Page 4401.

(D) Claim of Lien for Lot Clearing Expense filed by Miami-Dade County on April 10, 1995 in Official Records Book 16742, at Page 2590

(E) Claim of Lien for Lot Clearing Expense filed by Miami-Dade County on April 10, 1995 in Official Records Book 16742, at Page 2589.

(F) Tax Sale Certificate No. 27418 - 2001 real estate taxes for Tract 27.

(G) Tax Sale Certificate No. 27108 - 2000 real estate taxes for Tract 27.

(H) Tax Sale Certificate No. 27444 - 1999 real estate taxes for Tract 27.

(I) Tax Sale Certificate No. 24182 - 1998 real estate taxes for Tract 27.

(J) Tax Sale Certificate No. 25828 - 1997 real estate taxes for Tract 27.

(K) Tax Sale Certificate No. 27419 - 2001 real estate taxes for Tract 29.

(L) Tax Sale Certificate No. 27109 - 2000 real estate taxes for Tract 29.

(M) Tax Sale Certificate No. 27445 - 1999 real estate taxes for Tract 29.

(N) Tax Sale Certificate No. 24184 - 1998 real estate taxes for Tract 29.

(O) Tax Sale Certificate No. 25829 - 1997 real estate taxes for Tract 29.

(P) Tax Sale Certificate No. 37048 - 1993 real estate taxes for Tract 29.

(Q) Dedications contained on the Plat of West Little River, recorded in Plat Book 14, at Page 75.

(R) Dedications as contained in Plat of Revised Plat of West Little River Book 34, at Page 19.

ALL RECORDING REFERENCES ARE AS TO THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, UNLESS OTHERWISE SPECIFIED.

Therefore, it is our opinion that the following parties must join in the Declaration in order to make the agreement a valid and binding covenant on the lands described herein.

| Name | Interest | Special Exception Number |
|---|----------------------|--------------------------|
| S&D Land Development, Inc. Miami-Dade County | Fee Simple Lienor | 4(B), (C), (D) and (E) |

I, the undersigned, further certify that I am an attorney-at-law duly admitted to practice in the State of Florida and a member in good standing in the Florida Bar.

Respectfully submitted this 15th day of January, 2003.

SHUTTS & BOWEN LLP

By: _____

Robert Cheng

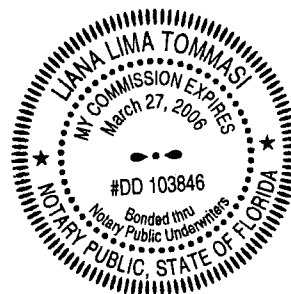
Florida Bar No. 0462772

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 15 day of January, 2003, by Robert Cheng, who is personally known to me.

Liana Lima Tommasi
Notary Public



SCHEDULE A

All of Tracts 27 and 29, as shown on the REVISED PLAT OF WEST LITTLE RIVER, according to the Plat thereof as recorded in Plat Book 34, Page 19, of the Public Records of Miami-Dade County, Florida, together with all that part of Northwest 77th Terrace and Northwest 77th Street, lying East of West line of Tract 29, extended North and South across said Street and Terrace and lying West of East line of said Tract 29, extended North and South across said Street and Terrace, all as shown on recorded plat of the REVISED PLAT OF WEST LITTLE RIVER, according to the Plat thereof, recorded in Plat Book 34, Page 19, of the Public Records of Miami-Dade County, Florida.

CONSENT AND JOINDER OF MIAMI-DADE COUNTY

The undersigned, MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida, the lien holder under that certain Claim of Lien for Lot Clearing Expense dated April 10, 1995 and recorded in Official Records Book 16742 at Page 2589, of the Public Records of Miami-Dade County, Florida, the lien holder under that certain Claim of Lien for Lot Clearing Expense dated April 10, 1995 and recorded in Official Records Book 16742 at page 2590, of the Public Records of Miami-Dade County, Florida, the lien holder under that certain Notice of Lien - Code Enforcement filed on July 28, 1997 in Official Records Book 17728 at page 4401 of the Public Records of Miami-Dade County, Florida, and the lien holder under that certain Notice of Lien- Code Enforcement filed on August 7, 1998 in Official Records Book 18223 at page 3827 of the Public Records of Miami-Dade County, Florida, hereby consents and joins in the foregoing Declaration of Restrictions.

26 IN WITNESS WHEREOF, this Consent and Joinder is executed by the undersigned this day of November, 2002.

Witnesses:

Nancy Rubin
Name: NANCY RUBIN

Benigna Marko
Name: Benigna Marko

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

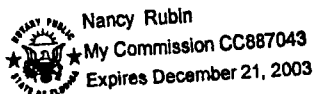
MIAMI-DADE COUNTY, FLORIDA, a
political subdivision of the State of Florida

By [Signature]
Name: PEDRO G. HERNANDEZ
Title: ASST. COUNTY MANAGER

The foregoing instrument was acknowledged before me this 26 day of November, 2002 by Pedro G. Hernandez as Asst County Manager of Miami-Dade County, Florida, a political subdivision of the State of Florida who is personally known to me or has produced _____ as identification.

Nancy Rubin
Notary Public, State of Florida at Large

Commission Expires:



BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

200 SOUTH BISCAYNE BOULEVARD, SUITE 2500 • MIAMI, FLORIDA 33131-5340

TELEPHONE: (305) 374-7580 • FAX: (305) 374-7593

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JERRY B. PROCTOR, ESQ., P.A.

Direct Dial (305) 350-2361

Email: JProctor@Bilzin.com

January 16, 2003

Via Hand Delivery

Nancy Rubin, Esq., Legal Counsel
Miami-Dade County Department
of Planning and Zoning
111 NW 1 Street, 11th Floor
Miami, Florida 33128

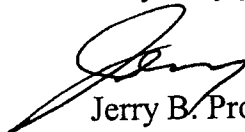
Re: S & D Land Development, Inc.
Zoning Application No. 02-265 (CZAB 8)
Hearing Date: January 22, 2003

Dear Nancy:

The above-styled public hearing application is scheduled for public hearing before Community Zoning Appeals Board 8 on January 22, 2003. A Declaration of Restrictions has been executed and previously submitted. In conjunction therewith, enclosed please find an updated Opinion of Title. There are no substantive changes since the last submittal.

Please incorporate this information into the official hearing file. Thank you for your help.

Very truly yours,



Jerry B. Proctor

JBP:id

cc: Terry Rolle, Miami-Dade County Planning and Zoning Dept. (w/encl.)
Mitchell Friedman (w/encl.)
Robert Cheng, Esq. (w/encl.)

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

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JERRY B. PROCTOR, ESQ., P.A.

Direct Dial (305) 350-2361

Email: JProctor@Bilzin.com

RECEIVED
DEC 02 2002

DEPT. OF PLANNING & ZONING
ZONING EVALUATION SECTION
BY _____

November 27, 2002

Via Hand Delivery

Nancy Rubin, Esq., Legal Counsel
Miami-Dade County Department
of Planning and Zoning
111 NW 1 Street, 11th Floor
Miami, Florida 33128

Re: S & D Land Development, Inc.
Zoning Application No. 02-265 (CZAB 8)
Hearing Date: December 3, 2002

Dear Ms. Rubin:

Enclosed please find an executed Declaration of Restrictions, together with the requisite Opinion of Title and the Consent and Joinder by Miami-Dade County to the Declaration of Restrictions. I would appreciate your review and confirmation as to the acceptability and accuracy of Declaration and supporting documents, prior to the public hearing on December 3, 2002.

Thank you kindly for assistance in procuring the Consent and Joinder by Miami-Dade County. Please give me a call if you have any questions.

Very truly yours,


Jerry B. Proctor

JBP:ld

cc: Terry Rolle, Miami-Dade County Planning and Zoning Dept. (w/encl.)
Kenneth Drucker, Esq., County Attorneys Office (w/encl.)
Mitchell Friedman (w/encl.)

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